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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

* * * * *

UNITED STATES OF AMERICA	*	
	*	09-CR-30-01/02-GZS
v.	*	July 8, 2009
	*	8:20 a.m.
EDWARD BROWN and ELAINE BROWN	*	
	*	
* * * * *		

Day 7
Morning Session
EXCERPT OF TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE GEORGE Z. SINGAL
and a jury

Appearances:

For the Government:	Arnold Huftalen, AUSA Terry Ollila, AUSA U.S. Attorney's Office 53 Pleasant Street Concord, NH 03301
For the Defendant, Edward Brown:	Michael J. Iacopino, Esq. Brennan, Caron, Lenehan & Iacopino 85 Brook Street Manchester, NH 03104
For the Defendant, Elaine Brown:	Bjorn R. Lange, Esq. Federal Defender Office 22 Bridge Street Concord, NH 03301
Court Reporter:	Diane M. Churas, LCR, CRR Official Court Reporter U.S. District Court 55 Pleasant Street Concord, NH 03301 (603) 225-1442

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I N D E X

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
EDWARD BROWN				
By Mr. Huftalen		9		33
By Mr. Lange		20		
By Mr. Iacopino			22	

1 IN CHAMBERS

2 THE COURT: Mr. Iacopino, you've had an
3 opportunity to talk to your client?

4 MR. IACOPINO: I have twice, your Honor.

5 THE COURT: Pardon me?

6 MR. IACOPINO: I have twice.

7 THE COURT: Is he ready to proceed?

8 MR. IACOPINO: He is ready. Yesterday he
9 indicated that he believes he would be able to follow
10 the judge's instructions. I will report to you though
11 this morning he's rather agitated.

12 THE COURT: We'll do the best we can. We'll
13 try to give him as fair a trial as he allows us to do.

14 MR. IACOPINO: Your Honor, in fairness, I
15 do -- the government represented they have about ten
16 more minutes of cross-examination. I do intend to
17 redirect.

18 THE COURT: I'm not going to hold the
19 government to the ten minutes, and you certainly can
20 redirect after Mr. Lange has an opportunity.

21 Number two, Mr. Lange, at some point when you
22 do decide whether your client is going to testify, if
23 she's not going to testify let me know so I can make
24 sure on the record that she understands her rights with
25 regard to her testimony.

1 MR. LANGE: I will need to speak to her
2 briefly.

3 THE COURT: Anytime. I just wanted to remind
4 me and you in that regard.

5 Finally, with regard to a couple of potential
6 witnesses, I think of Mr. Lange, is Christine Arvizu; is
7 that correct?

8 MR. LANGE: Yes, your Honor.

9 THE COURT: Of White River Junction, New
10 Hampshire?

11 MR. LANGE: Of Vermont.

12 THE COURT: Vermont?

13 MR. HUFTALEN: It's right across the river
14 from Lebanon.

15 THE COURT: And Sean Farnsworth of Rumney, New
16 Hampshire?

17 MR. LANGE: Yes, sir.

18 THE COURT: Those were late additions after we
19 went through jury selection.

20 MR. LANGE: They were.

21 THE COURT: I'm going to ask the jury if any
22 of them know them. If any of them do, we may have an
23 issue because even though I preliminarily agreed to let
24 them go, if we are going to have a problem, they may be
25 out.

1 MR. LANGE: I understand.

2 THE COURT: Anything else, counsel? Go ahead.

3 MR. HUFTALEN: Yes. Last night I received an
4 e-mail at 8:35 from Inspector LaBier who's the case
5 agent for this case informing me that some posts
6 appeared on the Newhampshireunderground.com log site or
7 website. Those posts appear to indicate that Kat, with
8 a K, Kanning, with a K, who's a fairly vocal supporter
9 of the Browns and who I'm told was in court yesterday is
10 attempting to ascertain the identity of one of the
11 jurors. There were comments asking whether or not it is
12 a security person in this courthouse, some posts in
13 response to that with a photograph, which I didn't see,
14 but her response is, okay, thanks but that's not him.

15 I think it may be the security person in
16 Keene. Given the history of this case and the threats
17 that have been made against a number of people and
18 public comments which are not part of the record, and
19 I'm not trying to put them in the trial record here, by
20 Mr. Brown concerning the jurors in the last trial, I'm
21 extremely concerned.

22 I did two minutes' worth of research this
23 morning of First Circuit law with respect to anonymous
24 juries, and I don't know what the Court's options are,
25 but if there's a way to order that the identities of the

1 jurors which have not yet been made public remain
2 anonymous for a certain period of years, I think it
3 would be prudent to do.

4 THE COURT: All right. I'm going to get
5 counsel on both sides to think about that, government.

6 MR. IACOPINO: I didn't understand one thing
7 that Mr. Huftalen said. You said something about it
8 being Keene?

9 MR. HUFTALEN: I will give you the copy of the
10 posts and you can look at that.

11 THE COURT: Counsel, put together whatever
12 authority you'd like in this regard and I will talk to
13 you tomorrow morning with regard to where we go on that
14 issue.

15 MR. HUFTALEN: Thank you.

16 MR. LANGE: Your Honor, I assume you have not
17 changed your mind at this point with regard to a
18 justification instruction.

19 THE COURT: I have an open mind on the issue.
20 I think it's a tough hill to climb with the defendants.
21 I'm convincible. But I have to be blunt with you, it
22 seems difficult under the circumstances, though please
23 understand that -- file whatever you want and try to
24 persuade me however you wish. It's a difficult issue
25 under the best of circumstances, for instance, the Lahey

1 case, very difficult here under these circumstances.

2 But I'm convincible.

3 MR. LANGE: Thank you.

4 MR. HUFTALEN: Mr. Iacopino, you can keep that
5 copy of the blogs that are referred to, and I will get
6 copies for Mr. Lange.

7 THE COURT: First thing we're going to do is
8 I'm going to talk to the jury and ask about these names.
9 If someone knows them I will call them over to side bar
10 and see where we go. If no one does, then we'll move
11 along. Have your client not on the stand.

12 MR. IACOPINO: Okay.

13 THE COURT: Have him next to you because it
14 may be necessary for us to talk to a juror at side bar.
15 Anything else, counsel?

16 MR. HUFTALEN: No.

17 THE COURT: All right. See you in court.

18 BEFORE THE COURT

19 MR. HUFTALEN: One matter, your Honor.
20 Yesterday I read into the record a stipulation to
21 Government's Exhibit 46, and you instructed me to read
22 it to the jury when we came back and I didn't.

23 THE COURT: All right. We'll do it right now.
24 First I'm going to take care of the witness issues and
25 then you can read it in front of the jury. Bring in the

1 jury, please.

2 THE CLERK: Yes, your Honor.

3 BEFORE THE JURY

4 THE COURT: Members of the jury, good morning.

5 Thank you for being so prompt this morning. You
6 remember that during the jury selection process I read a
7 list of possible witnesses to find out if anybody knew
8 anyone. I have two more names as possible witnesses. I
9 don't know if they will be or not obviously. If
10 anybody -- does anybody know, have any personal
11 relationship, relative of, etc., of Christine Arvizu of
12 White River Junction, Vermont? Just raise your hand if
13 the answer is yes.

14 All right. There's no one raising their hand.
15 Number two, Sean Farnsworth of Rumney, New Hampshire.
16 No one raised their hand. All right. Thank you very
17 much, members of the jury.

18 And Mr. Huftalen.

19 MR. HUFTALEN: Thank you, your Honor. The
20 government and counsel for the defendants and the
21 defendants through them have reached a stipulation which
22 I'd like to read into the record at this time.

23 THE COURT: You may. Ladies and gentlemen,
24 you remember I told you at the beginning during my
25 preliminary instructions that sometimes the two sides or

1 the three sides will agree on something; so it's not
2 necessary to present a witness. This is such a
3 stipulation. Go ahead.

4 MR. HUFTALEN: Thank you, your Honor. It's
5 marked as Government Exhibit 46 and it's captioned in
6 this case and reads as follows: Stipulation, the
7 government and both defendants, Edward Brown and Elaine
8 Brown through respective undersigned counsel, stipulate
9 that Government Exhibits 8b, 8c, 8d, 8e, 8f, 8g, 8h, 8i,
10 8j, 8k, 8L, 8m, 8n, 8o, 8p, 8q, 8r, 8s, 8t, 8u, 8v, 8w,
11 9a, 9b-1, 9b-2, 9b-3, 9c-1 through 9c-10, 9c-11, 9c-12,
12 9d, 9e-1 through 9e-7, 9f-1 and 11j all contain
13 gunpowder. And then there are signatures of counsel.

14 THE COURT: All right. Ladies and gentlemen
15 of the jury, you can accept that evidence as true, give
16 it whatever weight you believe that it deserves.
17 Anything else with regard to that stipulation, counsel?
18 I hear nothing.

19 MR. HUFTALEN: Nothing.

20 THE COURT: All right. And, Mr. Brown, you
21 may take the stand. Please be seated. You are still
22 under oath. You may proceed.

23 MR. HUFTALEN: Thank you.

24 CROSS-EXAMINATION (cont'd)

25 BY MR. HUFTALEN:

1 MR. HUFTALEN: Mr. Brown, good morning.

2 Q. Mr. Brown, during Mr. Lange's opening
3 statement when you were in the courtroom, you heard him
4 say that your wife returned to you after having spent
5 some time away from the home in January and February of
6 2007. Is that true?

7 A. She returned to me; that's correct.

8 Q. And before returning to you, she had been
9 living in Massachusetts. Is that what you understood?

10 A. Yes, yes.

11 Q. Mr. Lange described her as a -- I believe one
12 of the words he used was a devoted wife. Would you
13 agree with that characterization?

14 A. Absolutely. We have been together 24 years.

15 Q. You consider your relationship with your wife
16 to be an important and sincere relationship?

17 A. There is nothing more important to me in the
18 world than my wife except God.

19 Q. And would it be fair to say that over the
20 years you've come to share beliefs?

21 A. We're on the same path in life.

22 Q. And with respect to some of the beliefs that
23 you articulated yesterday concerning fear of the
24 government, does she share those with you?

25 A. Sir, I am the government in this country. I

1 don't fear myself. I fear the criminal element in
2 government. The public service changed the direction of
3 their endeavors in terms of how they represent us.

4 Q. Mr. Brown, while you and your wife were at
5 your home between February of 2007 and October of 2007
6 you made a number of statements through the media. Is
7 that right?

8 A. That's correct.

9 Q. And oftentimes you made statements through
10 radio shows, be they local broadcasts or Internet radio.
11 Is that also true?

12 A. Yes.

13 Q. And is it also true that on many occasions you
14 and your wife were together speaking, each of you,
15 during those radio broadcasts?

16 A. Yes.

17 Q. In particular are you familiar with the
18 Republic Broadcast Network?

19 A. I'm familiar with it.

20 Q. Known commonly as RBN?

21 A. Yes.

22 Q. RBN, or the Republic Broadcast Network,
23 carried on almost a daily radio show called Ed Brown
24 Under Siege; is that right?

25 A. That's correct.

1 Q. And you oftentimes called in and spoke with a
2 host and with callers on that show; did you not?

3 A. Yes.

4 Q. And on a number of occasions did your wife
5 participate in those conversations with you?

6 A. Yes.

7 Q. Would it be fair to characterize those
8 comments by you as comments to your supporters?

9 A. No. To the world, sir.

10 Q. To the world. Okay. Was the purpose in those
11 statements by you to let the world know who you were and
12 what you were doing?

13 A. No. The statements were to warn the world of
14 the danger that they are in, the same as John F. Kennedy
15 did prior to his assassination.

16 Q. And with particularity, were you warning the
17 world of the dangers --

18 MR. IACOPINO: Objection, your Honor. May we
19 approach?

20 THE COURT: You may.

21 AT SIDE BAR

22 THE COURT: Go ahead.

23 MR. IACOPINO: Your Honor, I object. This is
24 well beyond the scope of direct examination. It's an
25 area in which I was actually prohibited from addressing

1 this particular witness on direct examination by the
2 Court, and it's political statements that are irrelevant
3 to the issues before the Court. On that basis, your
4 Honor, I don't think he should be permitted this line of
5 cross-examination.

6 I would also point out that although I respect
7 Mr. Huftalen, I think that this line of
8 cross-examination could be perceived to be an effort to
9 agitate this defendant in his behavior on the witness
10 stand.

11 THE COURT: I don't think your client is being
12 agitated at all. I think he's much calmer than he was
13 yesterday. And number two, I think these are
14 preliminary questions; so Mr. Huftalen is trying to set
15 a foundation for later questions and I'm going to deny
16 it.

17 MR. HUFTALEN: Yes. Thank you.

18 IN OPEN COURT

19 Q. Mr. Brown, let me ask you that question in a
20 different way. Would it be fair to say that your
21 comments on RBN on the Ed Brown Under Siege radio show
22 during the time frame between February '07 and October
23 '07 were designed by you in particularity to warn the
24 world, as you say, of the dangers specifically
25 identified in your particular situation?

1 A. No.

2 Q. Did you speak about your particular situation,
3 and by that I mean the fact that you were at your home
4 and that the Marshal Service was making attempts to
5 arrest you.

6 A. Well, of course they weren't there to arrest
7 me. They were attempting to create a scenario of arrest
8 and allusion that we were the bad guys. That's all they
9 were doing. They had to do it that way. That's why
10 they didn't try to speak to us a few weeks earlier in a
11 public manner.

12 Q. Mr. Brown, do you remember speaking on that
13 show on March 20th, 2007, with your wife by your side
14 speaking as well about the position you had taken?

15 A. How could I know? I don't remember any
16 particular date. I don't remember most of the
17 conversations we've had or things I've even said over
18 the year.

19 Q. Let me ask you with particularity, do you
20 recall on March 20, 2007, in response to statements by
21 you that people had to make a stand, your wife said, and
22 I quote, you've got to defend with all the force you
23 need to defend with. Do you recall words to that
24 effect?

25 A. No. But I maintain on the stand absolutely

1 the position that all Americans have had to take from
2 its inception, this country since its inception against
3 the same people, and it's happening again now with the
4 same people by the way.

5 Q. Let me ask you if you recall immediately
6 thereafter those statements by she that you said: And
7 how far and much force will you need to do if necessary
8 under the law? Do you remember saying that?

9 A. No. But whatever the law dictates. I would
10 have probably stated something that the law had said or
11 one of our forefathers had said more than likely.

12 Q. And do you remember in response to your
13 question Mrs. Brown saying on March 20th, '07, "To the
14 death." Do you recall her using those words?

15 A. Sir, I don't recall words that were used from
16 my wife this morning barely. No. She may have said
17 that. I don't know. If it's recorded, you would know
18 that already, and if that's the case, that's the case.
19 I don't remember personally, no.

20 Q. And do you recall whether or not in response
21 to that you said, "To the death. Do you hear it, ladies
22 and gentlemen?"

23 A. Oh, sir, again, I repeat to you. This country
24 was founded to take that kind of position. We live in a
25 live free or die state. Do you understand what that

1 means, sir?

2 Q. Mr. Brown, about a minute and a half or a
3 minute and 40 seconds later, do you recall your wife
4 saying, "We don't know how this will end, but there's
5 only two ways we're coming out of here, as a free man
6 and a free woman or in body bags." Do you recall her
7 saying that?

8 MR. IACOPINO: Objection, hearsay.

9 THE COURT: Overruled.

10 A. I'm sorry, I don't remember her saying that.
11 If I clearly remembered, I would tell you that. I don't
12 remember her saying that.

13 Q. Do you remember her using that phrase numerous
14 times in many public statements thereafter?

15 A. She may have even heard me use that statement,
16 you know, if that's the case. The federal government
17 has used it several times and that's probably why you
18 originally had picked it up.

19 THE COURT: The jury will disregard the last
20 part.

21 THE WITNESS: Of course.

22 THE COURT: Mr. Brown, don't start.

23 THE WITNESS: Of course. You asked me --

24 THE COURT: Mr. Brown --

25 THE WITNESS: -- to speak the whole truth,

1 sir. I will speak the whole truth and nothing but the
2 truth so help me God. If you try to delay me, sir,
3 we'll have this confrontation.

4 THE COURT: Mr. Brown, you have to obey the
5 rules of the court.

6 THE WITNESS: Sir, there are no rules except
7 the ones that you make, sir, for your own personal
8 enrichment. That's a fact of record. Would you like to
9 have me bring that record forward, sir, to show the
10 jury? I will be glad to do so.

11 THE COURT: Jury's excused.

12 THE WITNESS: Yes.

13 (Jury left courtroom.)

14 BEFORE THE COURT

15 THE COURT: Mr. Brown, you can go back to your
16 counsel. Be seated. I'll hear from the government with
17 regard to possible sanctions.

18 MR. HUFTALEN: Your Honor, although there are
19 a number of other questions I'd like to ask Mr. Brown, I
20 believe I've had a fair and full opportunity to
21 cross-examine him and I will ask no further questions at
22 this point, and I would request that his, both direct
23 and cross, not be stricken from the record. With
24 respect to his continuing misbehavior, I respectfully
25 request that if he continues to interrupt the

1 proceedings, that he be removed from the courtroom.

2 THE COURT: Mr. Iacopino, your position?

3 MR. IACOPINO: Your Honor, we certainly oppose
4 any decision by the Court to strike Mr. Brown's direct
5 testimony, and in doing so I would rely on United States
6 versus Bartelho, 129 Fed. 3d, 663, which in summary
7 states that if defendant's behavior interferes with the
8 cross-examination and prohibits the government from
9 getting a fair cross-examination, then the appropriate
10 remedy might be to strike his direct testimony -- strike
11 all of his testimony.

12 However, your Honor, I don't think that that's
13 been the case here. The government's made a
14 representation to you they believe they have had a full
15 and fair opportunity to cross-examine the defendant, and
16 I would point out for the record that the defendant's
17 comments that are causing difficulty here are not in
18 terms of providing information in the questions. They
19 are in nature of the defendant's remarks towards the
20 Court. And I don't think that these cases address that,
21 and I don't think that an appropriate remedy for a
22 contemptuous remark to the judge is in fact the striking
23 of the testimony. I think that's where you are
24 required, your Honor, to balance the defendant's Sixth
25 Amendment right to a trial and to a fair trial and to

1 his right to testify against what other sanctions you
2 might impose on a condemnor in your court. I think the
3 appropriate way to deal with any sanctions for contempt,
4 your Honor, would be in a separate hearing at the
5 conclusion of these proceedings and not during the
6 course of these proceedings. And that would be our
7 response to you.

8 THE COURT: All right. Mr. Lange, do you have
9 a position?

10 MR. LANGE: Yes, your Honor. I would ask that
11 his testimony not be stricken.

12 THE COURT: All right. I'm not going to
13 strike his testimony at this point. Mr. Brown has in
14 the way he's answering the questions, refusing to answer
15 the questions directly, and is deliberately refusing to
16 obey the rules of court. I'm warning Mr. Brown that if
17 he continues his disruptive behavior, he will be removed
18 from the courtroom, just so he's aware of what happens.
19 That will happen even though he's in the midst of being
20 examined. He can return to the courtroom if he promises
21 to obey the court rules. Are we ready for the jury?

22 MR. HUFTALEN: Government's ready.

23 MR. IACOPINO: Yes, your Honor.

24 THE COURT: Bring in the jury.

25 BEFORE THE JURY

1 THE COURT: Mr. Brown, you may resume the
2 stand.

3 MR. HUFTALEN: No further questions, your
4 Honor.

5 THE COURT: Thank you. Mr. Lange?

6 CROSS-EXAMINATION

7 BY MR. LANGE:

8 MR. LANGE: Good morning, sir.

9 THE WITNESS: Good morning, sir.

10 MR. LANGE: I just have a couple points I want
11 to clarify.

12 Q. First of all with regard to the Tannerite
13 that's been discussed during the course of this trial,
14 what part, if any, did Elaine play with regard to
15 anything involving the Tannerite?

16 A. Nothing.

17 Q. With regard to the Goex cans or the various
18 other cans of black powder, some of which were described
19 as having a fuse in the top and some of which were
20 described as having nails taped around them, what part,
21 if any, did Elaine have with regard to any of those
22 items?

23 A. Nothing.

24 Q. There was a basket of -- looked like plumbing
25 parts, items had been assembled that several of the ATF

1 witnesses testified about. Do you remember where that
2 basket was? There was a basket -- do you remember or
3 you don't? It was a basket. I don't remember if these
4 were the pipes with the cotter pin --

5 A. Correct.

6 Q. -- or if they were the pipes with the hole in
7 the middle. Do you remember the basket?

8 A. My wife had nothing to do with any of that --
9 those devices, nothing.

10 Q. So that's true with regard to what's been
11 described as the pipe bombs?

12 A. That's what they called them, yes.

13 Q. That's true with what has been described as
14 the zip guns or booby traps?

15 A. They were neither zip guns nor booby traps.
16 They were merely sound signaling devices. And they
17 didn't work anyway. That's why I put them back in the
18 house.

19 Q. Earlier in the trial there was a photograph of
20 a portion of a tree trunk in your yard, and there was a
21 wire going out and there was some debris around the
22 wire. What was that?

23 A. Correct. That was a test with one of the
24 sound devices to see if they would work. We found --
25 they found the one shell. I noticed it was the one --

1 we finally forced it to make it work, but they were no
2 good. The springs weren't strong enough to make them
3 work; so we got rid of them.

4 Q. What part, if any, did Elaine have with regard
5 to those items?

6 A. Nothing.

7 MR. LANGE: Those are my questions.

8 A. Wasn't even present.

9 THE COURT: Thank you, Mr. Lange. Mr.
10 Iacopino, redirect.

11 MR. IACOPINO: Thank you, your Honor. Your
12 Honor, may I just approach the witness with Exhibit 5p
13 which was introduced during cross-examination?

14 THE COURT: Of course.

15 MR. IACOPINO: I'm sorry, your Honor. I
16 should have grabbed it before.

17 THE COURT: Take your time.

18 REDIRECT EXAMINATION

19 BY MR. IACOPINO:

20 Q. Mr. Brown, I'm going to show you what was
21 marked during your cross-examination as Exhibit 5p,
22 okay? And the exhibit that was presented to you by the
23 government has one, two, three, four pages. Would you
24 just take a quick look at those four pages, and tell me
25 if pages three and four are simply another list of the

1 same guns that are contained on page one and two?

2 A. That's correct; they are just redundancies.
3 Those pages are the same as page one. Page four is the
4 same as page one.

5 Q. So anybody who reviews this exhibit should
6 understand that if -- they can't just count all the way
7 through the four pages and determine a number of weapons
8 from that.

9 A. Oh, of course not. That's how the U.S.
10 Attorney's Office operates.

11 Q. Mr. Brown, towards the end of your testimony
12 you were asked by Mr. Huftalen about comments that
13 you've made on various public radio shows. Do you
14 recall that series of questions?

15 A. Yes, sir.

16 Q. And you told him that you did in fact make
17 such comments; correct?

18 A. That's correct.

19 Q. In fact on WFRB radio in an interview with a
20 gentleman by the name of Chris Fazio did you not tell
21 the public that shots were fired by the government on
22 June 7th and that changed the whole complexion of the
23 situation?

24 MR. HUFTALEN: Objection.

25 A. Correct.

1 THE COURT: Just a second.

2 MR. HUFTALEN: Objection.

3 THE COURT: Basis?

4 MR. HUFTALEN: Hearsay.

5 MR. IACOPINO: Government's opened the door.

6 THE COURT: You're allowed.

7 Q. Did you tell the public that? That on
8 June 7th shots were fired by the government and that
9 changed the whole complexion of the situation?

10 A. That is correct.

11 Q. Did you also make a statement to the public on
12 the radio that the police had decided that they were
13 going to kill Ed and Elaine for a few bucks even though
14 Ed indicated that he would pay if the government would
15 show him the law that required him to pay it?

16 A. That's correct.

17 MR. HUFTALEN: Objection.

18 THE COURT: Just a second. Objection is
19 sustained. Jury will disregard his answer.

20 Q. Did you tell the public in a radio interview
21 of Mr. Fazio that there was no crisis situation at the
22 Brown residence prior to June 7th, but that the
23 government was trying to incite the crisis situation by
24 its actions on June 7th, but it didn't work and it
25 wouldn't work?

1 A. That's right.

2 MR. HUFTALEN: Objection, hearsay, move to
3 strike.

4 THE COURT: Sustained. The jury will
5 disregard.

6 MR. IACOPINO: Your Honor, may I approach on
7 this?

8 THE COURT: No. Move on.

9 THE WITNESS: Good job.

10 THE COURT: Hold it. Mr. Brown, out of the
11 courtroom. Take him out.

12 THE WITNESS: You'd do well for a prosecutor,
13 Judge. You'd do well.

14 THE COURT: The jury.

15 (Jury left courtroom.)

16 BEFORE THE COURT

17 THE COURT: The record will reflect that after
18 I sustained the last objection, Mr. Brown talked to the
19 Court, smirked, and muttered "good job" to the Court.
20 This is one of multiple times Mr. Brown has been
21 contemptuous, and I've warned him. He is to remain out
22 of the court until he can behave himself. We're going
23 to take a five-minute recess. Mr. Iacopino, talk to
24 your client. Tell him he's free to reenter the court
25 when he's able to behave, follow the court orders, and

1 not be contemptuous to the Court. We'll take a
2 five-minute recess.

3 (Brief recess taken.)

4 BEFORE THE COURT

5 THE COURT: Mr. Iacopino, your client I see is
6 not present.

7 MR. IACOPINO: No, he's not, your Honor, but
8 that's only because I -- when the court staff asked me,
9 I said I'd rather address you. I have spoken to my
10 client. The last thing that he indicated to me before I
11 left was that he would try to follow your instructions,
12 and so I didn't know if that was going to satisfy the
13 Court or not; so that's why I came out to report that to
14 the Court.

15 THE COURT: Mr. Lange, do you have a position?

16 MR. LANGE: No, your Honor.

17 THE COURT: Government?

18 MR. HUFTALEN: If he behaves himself, I think
19 he should be in the courtroom.

20 THE COURT: Bring Mr. Brown in, put him back
21 on the stand, please. We'll give it one more try.

22 (Mr. Brown resumed the stand.)

23 THE COURT: Ready for the jury?

24 MR. HUFTALEN: Yes.

25 THE COURT: Bring in the jury, please.

1 BEFORE THE JURY

2 THE COURT: Mr. Iacopino?

3 MR. IACOPINO: Thank you, your Honor.

4 Q. BY MR. IACOPINO: Mr. Brown, did you give an
5 interview on June 8, 2007, to Republic Broadcasting
6 Network?

7 MR. HUFTALEN: Objection. May we approach?

8 THE COURT: Yes.

9 AT SIDE BAR

10 MR. HUFTALEN: I object to the continuing line
11 of questions that Mr. Iacopino knows are going to draw
12 hearsay objections and I believe may be designed to make
13 the government look like the obstructionist in this
14 trial. To the extent he's eliciting hearsay statements
15 which are statements made by Mr. Brown, they are
16 self-serving, they are hearsay, and I don't believe
17 there's any legitimate hearsay exception upon which a
18 basis of admissibility could be made.

19 THE COURT: What's the expected response?

20 MR. IACOPINO: Your Honor, the expected
21 response is on that date he did give such a statement
22 and that he specifically told people not to come to New
23 Hampshire and that he did not want people coming up to
24 the residence. This is a day after Danny Riley was
25 tasered at the home, and I believe that the government

1 in their cross-examination has opened the door to every
2 public statement that my client's made because they have
3 picked and they have chosen amongst many to put in front
4 of this jury, and we have the right to show that my
5 client was not out there continuously making these
6 public statements that he's left the jury with the
7 impression that they have made.

8 And they started this with the indictment,
9 your Honor. The indictment contained a number of overt
10 acts that asserted that various people were making
11 public statements. Now, I understand that those have
12 been removed from the indictment at this point on my
13 motion, but the fact is that this is an issue that was
14 created by the government, and we have the right to make
15 sure that this jury understands that my client was not
16 out there continuously trying to rile people up or to
17 come up to New Hampshire or to cause violence or
18 trouble.

19 MR. LANGE: I join.

20 THE COURT: I'm not clear what exception to
21 the hearsay rule you are asserting here, either one of
22 you, Mr. Lange or Mr. Iacopino.

23 MR. LANGE: Yes, your Honor. It's the
24 doctrine of rule of completeness, once the government
25 opened the door by bringing in the defendant's

1 statements.

2 THE COURT: That's Rule --

3 MR. LANGE: 104?

4 THE COURT: It's 106, remainder of writings or
5 recorded statements. Is that the one you are talking
6 about?

7 MR. LANGE: Yes, your Honor.

8 THE COURT: Is this part of a statement that
9 the government referred to or a separate statement?

10 MR. IACOPINO: We don't know because the
11 defendant when he was questioned by the government
12 didn't know what dates he made various particular
13 statements, but the impression that's been left with
14 this jury, your Honor, from the cross-examination is
15 that my client had made -- was making such statements.
16 It also leaves the impression that my client acted
17 willfully, bringing a state of mind into state here,
18 your Honor, and I would respectfully submit that under
19 these circumstances, under both 803(3) and under the
20 catch-all provision, this is appropriate evidence to be
21 presented through his direct examination.

22 THE COURT: As far as the catch-all provision,
23 I see no indicia of reliability on that statement at
24 all. As far as Rule 106, if you can lay a foundation
25 that it was part of another statement, I will deal with

1 it. Do you have another rule that you want to refer to?

2 MR. IACOPINO: Not at this point, your Honor.

3 THE COURT: All right. That's out then.

4 IN OPEN COURT

5 Q. BY MR. IACOPINO: Mr. Brown, I'm going to
6 change tracks for a moment, okay? During your
7 cross-examination you were asked about the fact that at
8 some of the jamborees and the barbecue that was had at
9 your home, children were present. Do you recall that
10 series of questions by Mr. Huftalen?

11 A. Yes, I do.

12 Q. At any point in time when visitors came on
13 your property, were there ever booby traps set out?

14 A. No. That's in itself -- of course not.

15 Q. Were there ever any kind of explosives
16 available to anybody?

17 A. No, sir.

18 Q. Were guns left around for children to find?

19 A. No, sir.

20 Q. Was your property made safe for any children
21 and families that may come up?

22 A. That's correct, sir.

23 Q. He also asked you about those jamborees and
24 about aircraft.

25 A. Yes, sir.

1 Q. And at the second jamboree did aircraft come
2 over your home?

3 A. Yes, sir.

4 Q. Please explain to the jury what type of
5 aircraft and the conduct of that aircraft.

6 A. It was a helicopter with two or three
7 personnel inside of it. You could see them clearly
8 because they were just at treetop level. They came in
9 at approximately -- I believe it was around one o'clock,
10 around there sometime, and they stayed for eight hours
11 and hovered and circled and circled and hovered just
12 above the tops of the trees. We were concerned many
13 times throughout the day that if anything should happen,
14 if it crashes with the crowd that was down below. We
15 asked them to retire. They refused. We called the
16 Lebanon Airport. The same thing. They said that they
17 could not --

18 THE COURT: That's it. Stop. You are moving
19 into hearsay. Move on, next question.

20 Q. Is it fair to say that the aircraft bothered
21 you enough you tried to take action to stop it?

22 A. Excuse me?

23 Q. Is it fair to say that the aircraft was
24 bothersome enough that you tried to take action to stop
25 it by calling somebody with authority?

1 A. That's correct. They were like right here,
2 absolutely.

3 Q. Thank you. On June 7th, 2007, how did you
4 learn about the presence of armored cars and things of
5 that nature in the area of your home?

6 A. After a distress fire as I testified earlier
7 standing out in front, within about three or four
8 minutes or so, a cellphone rang. I picked it up. The
9 caller simply said there was APC, armored personnel
10 carrier, heading south on 12A toward our home with three
11 state troopers in cruisers in the front and three state
12 troopers in the back, and they said they had seen one
13 earlier, probably about an hour prior to that, the same
14 kind of situation.

15 Q. How did that make you feel?

16 A. I panicked almost. I decided they're coming
17 now.

18 Q. What did you think the armored personnel
19 carrier and the various state trooper vehicles -- what
20 did you think their purpose was?

21 A. I know what their purpose was. Their purpose
22 is to assault. That's what they do. That's the only
23 reason they'd be in the area is to assault.

24 Q. Assault who?

25 A. Me. Who else? I was already in speculation

1 after what's already happened prior with the helicopter
2 circling over and everything else. I knew. It was
3 building, constantly building. U.S. Attorney's Office
4 kept building them up.

5 THE COURT: All right. Ask another question.

6 Q. Why did you pick up that 50-caliber on
7 June 7th?

8 A. Defense.

9 THE COURT: Ask another question.

10 Q. Defense of what?

11 A. Defense of my life and property, my wife.

12 Q. After June 7, 2007, did you want people to
13 come up to your property?

14 A. Not like they were before, no.

15 MR. IACOPINO: Thank you. I have no further
16 questions.

17 THE COURT: Thank you, Mr. Iacopino.
18 Government, questions?

19 MR. HUFTALEN: Very, very briefly, your Honor.

20 THE COURT: Go ahead.

21 RECROSS-EXAMINATION

22 BY MR. HUFTALEN:

23 Q. The last question Mr. Iacopino asked you, I
24 think he said after June 7th you didn't want people to
25 come to your property. Is that right?

1 A. Not as much, sir.

2 Q. But it was after June 7th that you had the
3 jamboree and the barbecue and the parties; is that
4 right?

5 A. That's correct. I didn't set any of that up.
6 They came on their own, sir. After June 7th I was
7 discouraging it. They came in anyway from all over the
8 country.

9 Q. Okay. So the jamboree that was on your
10 property you didn't want to happen. It was other people
11 that came and did it?

12 A. That's correct.

13 Q. And the barbecue in July, you didn't want that
14 to happen. It was the other people who made you do
15 that?

16 A. No, I didn't. That's correct.

17 MR. HUFTALEN: Okay. Thank you. Nothing
18 further.

19 THE COURT: Mr. Lange, questions?

20 MR. LANGE: No, thank you.

21 THE COURT: Mr. Iacopino?

22 MR. IACOPINO: Nothing further, your Honor.

23 THE COURT: Thank you, Mr. Brown. You may
24 step down.

25 (End of excerpt.)

1 C E R T I F I C A T E

2

3 I, Diane M. Churas, do hereby certify that the
4 foregoing transcript is a true and accurate
5 transcription of the within proceedings, to the best of
6 my knowledge, skill, ability and belief.

7

Submitted: 8/4/09

8

9 /s/ Diane M. Churas ____
DIANE M. CHURAS, LCR, CRR

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